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What is probate?

Probate is the court-supervised process for the orderly transfer of a decedent's assets to those who are entitled to them.

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When someone dies, do I have to go to the Probate Office?

If the person who died had a Will or Last Will and Testament, by state law, you must file the original with the Register in Probate within 30 days of the date of death even if no actual probate process is required.

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What is Informal Probate?

Informal probate is the administration of the decedent's estate, intestate or testate (without or with a Will) without exercise of continuous supervision by the Court. Informal administration proceedings are circuit court proceedings under probate jurisdiction.

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Do I need a Lawyer?

While Wisconsin statutes do not require you to hire an attorney to probate an estate informally, you may seek advice or the services of an attorney at any point during the process. Also, at any time during the probate process, a demand for formal proceedings may be filed with the court, at which time the services of an attorney may be necessary.

It is important for you to remember that most Probate Registrars are not attorneys. Even if your local Registrar is an attorney, statutes prohibit Registrars from giving legal advice. A Registrar's role is to guide you NOT advise you.

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What does a Personal Representative do?

Serving as personal representative is a VERY important job. You will be required to take an oath that you will uphold the law and you may be required to post a bond to protect the assets in the estate. You must keep all interested parties informed of the status of the estate proceedings and complete the estate in a timely fashion. Statutory time frames are outlined in the Checklist on pages 11 and 33.

For all practical purposes, a personal representative is acting in place of the decedent. You are expected to handle the assets of the decedent just as any prudent person would handle their own assets.

Your duties will include taking possession of all the decedent's assets and filing an inventory including the date of death values of all assets you have in your control. You will be starting a checking account where you can keep accurate records of income and expenses.

You will give notice to creditors and may give notice to interested persons by publication in the newspaper. Notice must also be given to interested persons by mail or personal service if Waiver and Consent forms cannot be obtained.

You may be converting assets to cash, selling real estate, running a business, insuring and keeping property in good repair.

You will collect any income due to the decedent like interest, dividends, rent, etc. You will pay bills, settle proper claims or object to claims that are not appropriate.

There may be final and fiduciary tax returns to complete. You may be required to file a closing certificate for fiduciaries from the Department of Revenue. You are encouraged to utilize the services of a competent tax preparer or an attorney to help you with this aspect of the estate.

You may be required to file a final accounting showing all money that came in to the estate between date of death and distribution and all money that was paid out of the estate.

You will distribute assets according to the Will and/or statutes and secure receipts from those receiving assets.

Finally, you will file a personal representative's statement to close estate. Six months after the filing of this statement, your duties are complete.

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Who are the heirs?

The heirs are the "closest living relatives" of a person as defined by the Wisconsin Statutes. Heirs are entitled to notice of probate proceedings and will inherit all of the decedent's assets if he or she did not leave a Will. Review the following list until you find *at least one living person*. All of the people described in that category will be the heirs.

- Spouse, or Spouse and children not of the current marriage (if any)
- Children (and descendants of any child who is deceased)
- Grandchildren (and descendants of a deceased grandchild)
- Parents
- Siblings (and descendants of siblings who are deceased)
- Nieces and nephews (and descendants of those who are deceased)

If none of the above are living, refer to the [statutes \(chapter 852\)](#) for further distribution.

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What if there is no Will? What happens then?

If the decedent did not leave a Will and a probate is required, the rules of Intestate Succession apply. See Chapter 852 of the Wisconsin Statutes.

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How do I get a Domiciliary Letter?

Domiciliary Letters are issued by the probate court either upon the filing of all required documents with the Probate Registrar for an informal proceeding, or after a hearing before the Circuit Judge or Probate Court Commissioner in a formal probate proceeding. The Domiciliary Letters shows that the probate court has given the authority to the named personal representative to act on behalf of the estate of the decedent and to perform all duties required to administer the estate according to statute.

Please note that even though a person is nominated in a decedent's will as personal representative, they do not have the authority to act until it has been granted to them by the probate court.

Also, not all probate proceedings need a domiciliary letter to release the property/funds.

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What costs are involved?

FEES:

FEES	
Effective December 1, 2006	
<i>INVENTORY FILING FEE FOR ESTATES:</i>	
a) Gross estate, <u>\$10,000.00</u> or less.....	\$20.00
b) Gross estate, more than <u>\$10,000.00</u> of the amount of the gross estate	.2%
<i>INVENTORY FILING FEE FOR GUARDIANSHIPS AND CONSERVATORSHIPS:</i>	
a) Gross estate, <u>\$50,000.00</u> or less.....	\$20.00
b) Gross estate, more than <u>\$50,000.00</u>2%
FILING CLAIM AGAINST ESTATE.....	\$3.00
OBJECTION TO PROBATE OF WILL.....	\$20.00
<i>SAFEKEEPING:</i>	
a) Wills.....	\$10.00
b) Health Care Power of Attorney.....	\$8.00
c) Declaration of Physicians (Living Will).....	\$8.00
COPIES/COMPARING.....	\$1.00 per page
FAX FEE.....	\$1.00 per page
CERTIFICATION (one page).....	\$4.00
FOR EACH ADDITIONAL PAGE.....	\$1.00
SEARCHING FOR FILES/RECORDS.....	\$4.00 each
TERMINATION OF LIFE ESTATES.....	\$3.00
TERMINATION OF JOINT TENANCY/SURVIVORSHIP.....	Same as estates
CERTIFICATE OF JUDGMENT OR DESCENT.....	Same as estates
3 PARTY AUTHENTICATION.....	\$9.00
FOR EACH ADDITIONAL PAGE.....	\$1.00

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What is a Transfer by Affidavit?

Wisconsin Statutes allows for the transfer of a small estate to an heir of a decedent, the decedent's guardian, or a trustee without the necessity of going through a probate proceeding. When a decedent leaves **solely** owned property with a **total** value of \$50,000 or less, the Affidavit for Transfer of Property can be used.

The Affidavit for Transfer is not filed or processed by the Probate Court. It is a matter handled between the heir and institution or other entity holding the decedent's property.

This form and instructions are available from the office of your county Register in Probate or you may obtain the [Transfer by Affidavit \(\\$50,000 and under\)](#) from the Wisconsin Court System Website by clicking on the form name above.

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How do I file a claim?

- Complete standard state form PR-1819.
- File the completed form with the Register in Probate together with the \$3.00 statutory filing fee.
- Send a copy to the Personal Representative and the estate attorney.
- There is a time limit for filing a claim based on when the probate action was started. You can check the court file in person or the review the court record on the internet at: <http://wcca.wicourts.gov/index.xsl> to find out the claims deadline for a particular case.

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What if I have a Power of Attorney?

Your power to act as agent ends with the death of the principal.

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How can I get State forms?

The use of standard State forms is required by all Wisconsin Circuit Courts. You may obtain State probate forms from the office of your county Register in Probate or You may print or download probate forms from the Wisconsin Court System website at: <http://wicourts.gov/forms1/circuit.htm>

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How do I get an EIN number?

The form to apply for an "Employer Identification Number" is available at the following website: <http://www.firstgov.gov>

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What are probate benchmarks?

Wisconsin Statutes require all estates to be settled as soon as reasonably possible and without unnecessary delay. The Wisconsin Chief Judges have set twelve (12) months as the benchmark for disposing of probate cases. Therefore, probate cases are to be disposed of within twelve (12) months of filing the case initiation documents.

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How do I search for records?

Court records are available online at <http://wcca.wicourts.gov/index.xsl>. Probate records are open to the public. You can check the status of an open case or search the records for a case that has been closed. Please be advised that **Barron County** probate records prior to **January 1, 1993** must be searched using the index book available at the Register in Probate office.

Every county, except Portage County, has their probate records on computer. If you do not find the case you are searching for or you are conducting genealogy research, you may contact the Register in Probate office to search the probate records; a \$4.00 fee is required for the search.

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How do I transfer a vehicle?

The **State Department of Motor Vehicles** has forms to use to transfer a vehicle. Check their website at <http://www.dot.wisconsin.gov/drivers/vehicles/title/index.htm> for more information about their office hours and locations and how to transfer title to:

An heir: <http://www.dot.wisconsin.gov/drivers/vehicles/title/heir.htm> or

A surviving spouse: <http://www.dot.wisconsin.gov/drivers/vehicles/title/surviving.htm> or

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